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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/851,268	05/07/2001	Robert J. Greenberg	S105-USA	2969
28284	7590	06/15/2004	EXAMINER	
SECOND SIGHT, LLC 12744 SAN FERNANDO ROAD BUILDING #3 SYLMAR, CA 91342			BOCKELMAN, MARK	
			ART UNIT	PAPER NUMBER
			3762	7

DATE MAILED: 06/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/851,268

Applicant(s)

GREENBERG ET AL.

Examiner

Mark W Bockelman

Art Unit

3762

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 March 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-95 is/are pending in the application.
- 4a) Of the above claim(s) 1-23 and 69-79 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 48-68 and 80-95 is/are allowed.
- 6) ☒ Claim(s) 24-47 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 1 and 2.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

Applicant's election without traverse of group II claims 24-68 and 80-95 in the reply filed on 3-12-04 is acknowledged.

Claims 1-23, 69-79 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 3-12-04.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 24, 28, 29 are rejected under 35 U.S.C. 102(b) as being anticipated by Bray et al USPN 4,924,522 or Ueda USPN 5,327,258. Both Bray and Ueda are devices that have high resolution input devices and low resolution output devices. Pixel density is reduced by an order of 4 (see Ueda column 1 lines 30 –34, Bray column 1 lines 30 – 34 where in the are compactions is $2 \times 2 \rightarrow 1 = 4$).

Claim Rejections - 35 USC § 103

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The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 24-26, 28-47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ruoff, Jr USPN 4,513,317 in view of Bray et al 4,924,522 or Ueda USPN 5,327,258. Ruoff, Jr teaches a device for aiding in viewing which comprises a camera 900 and a display 300 and an eye tracking system. The eye tracking system (patient input device) causes the the display to display specific areas at a high resolution and others at a low resolution. The method may involve using a normal camera and transmitting the high resolution pixels in their normal high resolution density while pixel averaging other areas to provide low density surrounding area. While Ruoff does not teach the 4:1 reduction, Bray and Ueda show that it was notoriously well known to provide 4:1 pixel averaging reduction. The movement of the eye will cause various different subsets of pre- low resolution pixels to be selected, while the number of eye movements will determine the magnitude (or number) of alterations. The eye sensors used by Ruoff ultimately detect eye muscle movement all though indirectly. The out put display in a neural stimulator since the images generated stimulate the retinal nerves. Filtering the images would have been an obvious inclusion as such is customary. 10000 pixel cameras are customary

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Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ruoff, Jr USP 4,513,317 in view of Bray et al 4,924,522 or Ueda USP 4,513,317 as applied to claims 24-26, 28-47 above, and further in view of Schmid. To have used the eye focusing techniques of Ruoff in the Schmid prosthesis device would have been obvious so as to reduce image transmission waste as taught by Ruoff.

Allowable Subject Matter

Claims 48-68 and 80-95 are allowed. It is noted that WO 00/56393

Commonly owned by second sight with common inventors Schulman and Greenberg is the closest reference to the claimed invention and would not be available as prior art under 103.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark W Bockelman whose telephone number is (703)-308-2112. The examiner can normally be reached on Monday - Thursday 10-8:30.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Angela Sykes can be reached on (703) 308-5181. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MWB

June 13, 2004


MARK BOCKELMAN
PRIMARY EXAMINER